

REFERENCE TITLE: state board; charter schools; applications

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

# **SB 1343**

Introduced by  
Senator Huppenthal

AN ACT

AMENDING SECTION 15-183, ARIZONA REVISED STATUTES; RELATING TO CHARTER SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to  
3 read:

4 15-183. Charter schools; application; requirements; immunity;  
5 exemptions; renewal of application; reprisal

6 A. An applicant seeking to establish a charter school shall submit a  
7 written application to a proposed sponsor as prescribed in subsection C of  
8 this section. The application shall include a detailed business plan for the  
9 charter school and may include a mission statement for the charter school, a  
10 description of the charter school's organizational structure and the  
11 governing body, a financial plan for the first three years of operation of  
12 the charter school, a description of the charter school's hiring policy, the  
13 name of the charter school's applicant or applicants and requested sponsor, a  
14 description of the charter school's facility and the location of the school,  
15 a description of the grades being served and an outline of criteria designed  
16 to measure the effectiveness of the school.

17 B. The sponsor of a charter school may contract with a public body,  
18 private person or private organization for the purpose of establishing a  
19 charter school pursuant to this article.

20 C. The sponsor of a charter school may be either a school district  
21 governing board, the state board of education or the state board for charter  
22 schools, subject to the following requirements:

23 1. For charter schools that submit an application for sponsorship to a  
24 school district governing board:

25 (a) An applicant for a charter school may submit its application to a  
26 school district governing board, which shall either accept or reject  
27 sponsorship of the charter school within ninety days. An applicant may  
28 submit a revised application for reconsideration by the governing board. If  
29 the governing board rejects the application, the governing board shall notify  
30 the applicant in writing of the reasons for the rejection. The applicant may  
31 request, and the governing board may provide, technical assistance to improve  
32 the application.

33 (b) In the first year that a school district is determined to be out  
34 of compliance with the uniform system of financial records, within fifteen  
35 days of the determination of noncompliance, the school district shall notify  
36 by certified mail each charter school sponsored by the school district that  
37 the school district is out of compliance with the uniform system of financial  
38 records. The notification shall include a statement that if the school  
39 district is determined to be out of compliance for a second consecutive year,  
40 the charter school will be required to transfer sponsorship to another entity  
41 pursuant to subdivision (c) of this paragraph.

42 (c) In the second consecutive year that a school district is  
43 determined to be out of compliance with the uniform system of financial  
44 records, within fifteen days of the determination of noncompliance, the  
45 school district shall notify by certified mail each charter school sponsored

1 by the school district that the school district is out of compliance with the  
2 uniform system of financial records. A charter school that receives a  
3 notification of school district noncompliance pursuant to this subdivision  
4 shall file a written sponsorship transfer application within forty-five days  
5 with the state board of education, the state board for charter schools or the  
6 school district governing board if the charter school is located within the  
7 geographic boundaries of that school district. A charter school that  
8 receives a notification of school district noncompliance may request an  
9 extension of time to file a sponsorship transfer application and the state  
10 board of education, the state board for charter schools or a school district  
11 governing board may grant an extension of not more than an additional thirty  
12 days if good cause exists for the extension. The state board of education  
13 and the state board for charter schools shall approve a sponsorship transfer  
14 application pursuant to this paragraph.

15 (d) Beginning July 1, 2000, a school district governing board shall  
16 not grant a charter to a charter school that is located outside the  
17 geographic boundaries of that school district.

18 (e) A school district that has been determined to be out of compliance  
19 with the uniform system of financial records during either of the previous  
20 two fiscal years shall not sponsor a new or transferring charter school.

21 2. The applicant may submit the application to the state board of  
22 education or the state board for charter schools. APPLICATIONS MAY BE  
23 SUBMITTED TO THE STATE BOARD FOR CHARTER SCHOOLS AT ANY TIME THROUGHOUT THE  
24 CALENDAR YEAR. The state board of education or the state board for charter  
25 schools may approve the application if the application meets the requirements  
26 of this article and may approve the charter if the proposed sponsor  
27 determines, within its sole discretion, that the applicant is sufficiently  
28 qualified to operate a charter school. The state board of education or the  
29 state board for charter schools may approve any charter schools transferring  
30 charters. The state board of education and the state board for charter  
31 schools shall approve any charter schools transferring charters from a school  
32 district that is determined to be out of compliance with the uniform system  
33 of financial records pursuant to this section, but may require the charter  
34 school to sign a new charter that is equivalent to the charter awarded by the  
35 former sponsor. If the state board of education or the state board for  
36 charter schools rejects the preliminary application, the state board of  
37 education or the state board for charter schools shall notify the applicant  
38 in writing of the reasons for the rejection and of suggestions for improving  
39 the application. THE STATE BOARD FOR CHARTER SCHOOLS SHALL EITHER ACCEPT OR  
40 REJECT SPONSORSHIP OF THE CHARTER SCHOOL WITHIN NINETY DAYS AFTER THE  
41 SUBMISSION OF THE PRELIMINARY APPLICATION. An applicant may submit a revised  
42 application for reconsideration by the state board of education or the state  
43 board for charter schools. The applicant may request, and the state board of  
44 education or the state board for charter schools may provide, technical  
45 assistance to improve the application. THE STATE BOARD FOR CHARTER SCHOOLS

1 SHALL EITHER ACCEPT OR REJECT SPONSORSHIP OF THE CHARTER SCHOOL WITHIN NINETY  
2 DAYS AFTER THE SUBMISSION OF THE REVISED APPLICATION.

3 3. Each applicant seeking to establish a charter school shall submit a  
4 full set of fingerprints to the approving agency for the purpose of obtaining  
5 a state and federal criminal records check pursuant to section 41-1750 and  
6 Public Law 92-544. If an applicant will have direct contact with students,  
7 the applicant shall possess a valid fingerprint clearance card that is issued  
8 pursuant to title 41, chapter 12, article 3.1. The department of public  
9 safety may exchange this fingerprint data with the federal bureau of  
10 investigation. The criminal records check shall be completed before the  
11 issuance of a charter.

12 4. All persons engaged in instructional work directly as a classroom,  
13 laboratory or other teacher or indirectly as a supervisory teacher, speech  
14 therapist or principal shall have a valid fingerprint clearance card that is  
15 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a  
16 volunteer or guest speaker who is accompanied in the classroom by a person  
17 with a valid fingerprint clearance card. A charter school shall not employ a  
18 teacher whose certificate has been revoked for a violation of section 15-507  
19 or 15-550 or for any offense that placed a pupil in danger. All other  
20 personnel shall be fingerprint checked pursuant to section 15-512. Before  
21 employment, the charter school shall make documented, good faith efforts to  
22 contact previous employers of a person to obtain information and  
23 recommendations that may be relevant to a person's fitness for employment as  
24 prescribed in section 15-512, subsection F. The charter school shall notify  
25 the department of public safety if the charter school or sponsor receives  
26 credible evidence that a person who possesses a valid fingerprint clearance  
27 card is arrested for or is charged with an offense listed in section  
28 41-1758.03, subsection B. Charter schools may hire personnel that have not  
29 yet received a fingerprint clearance card if proof is provided of the  
30 submission of an application to the department of public safety for a  
31 fingerprint clearance card and if the charter school that is seeking to hire  
32 the applicant does all of the following:

33 (a) Documents in the applicant's file the necessity for hiring and  
34 placement of the applicant before receiving a fingerprint clearance card.

35 (b) Ensures that the department of public safety completes a statewide  
36 criminal history information check on the applicant. A statewide criminal  
37 history information check shall be completed by the department of public  
38 safety every one hundred twenty days until the date that the fingerprint  
39 check is completed.

40 (c) Obtains references from the applicant's current employer and the  
41 two most recent previous employers except for applicants who have been  
42 employed for at least five years by the applicant's most recent employer.

43 (d) Provides general supervision of the applicant until the date that  
44 the fingerprint card is obtained.

1 (e) Completes a search of criminal records in all local jurisdictions  
2 outside of this state in which the applicant has lived in the previous five  
3 years.

4 (f) Verifies the fingerprint status of the applicant with the  
5 department of public safety.

6 5. If a charter school operator is not already subject to a public  
7 meeting or hearing by the municipality in which the charter school is  
8 located, the operator of a charter school shall conduct a public meeting at  
9 least thirty days before the charter school operator opens a site or sites  
10 for the charter school. The charter school operator shall post notices of  
11 the public meeting in at least three different locations that are within  
12 three hundred feet of the proposed charter school site.

13 D. A board that is authorized to sponsor charter schools pursuant to  
14 this article has no legal authority over or responsibility for a charter  
15 school sponsored by a different board. This subsection does not apply to the  
16 state board of education's duty to exercise general supervision over the  
17 public school system pursuant to section 15-203, subsection A, paragraph 1.

18 E. The charter of a charter school shall ensure the following:

19 1. Compliance with federal, state and local rules, regulations and  
20 statutes relating to health, safety, civil rights and insurance. The  
21 department of education shall publish a list of relevant rules, regulations  
22 and statutes to notify charter schools of their responsibilities under this  
23 paragraph.

24 2. That it is nonsectarian in its programs, admission policies and  
25 employment practices and all other operations.

26 3. That it provides a comprehensive program of instruction for at  
27 least a kindergarten program or any grade between grades one and twelve,  
28 except that a school may offer this curriculum with an emphasis on a specific  
29 learning philosophy or style or certain subject areas such as mathematics,  
30 science, fine arts, performance arts or foreign language.

31 4. That it designs a method to measure pupil progress, toward the  
32 pupil outcomes adopted by the state board of education pursuant to section  
33 15-741.01 including participation in the Arizona instrument to measure  
34 standards test and the nationally standardized norm-referenced achievement  
35 test as designated by the state board and the completion and distribution of  
36 an annual report card as prescribed in chapter 7, article 3 of this title.

37 5. That, except as provided in this article and in its charter, it is  
38 exempt from all statutes and rules relating to schools, governing boards and  
39 school districts.

40 6. That, except as provided in this article, it is subject to the same  
41 financial and electronic data submission requirements as a school district,  
42 including the uniform system of financial records as prescribed in chapter 2,  
43 article 4 of this title, procurement rules as prescribed in section 15-213  
44 and audit requirements. The auditor general shall conduct a comprehensive  
45 review and revision of the uniform system of financial records to ensure that

1 the provisions of the uniform system of financial records that relate to  
2 charter schools are in accordance with commonly accepted accounting  
3 principles used by private business. A school's charter may include  
4 exceptions to the requirements of this paragraph that are necessary as  
5 determined by the district governing board, the state board of education or  
6 the state board for charter schools. The department of education or the  
7 office of the auditor general may conduct financial, program or compliance  
8 audits.

9 7. Compliance with all federal and state laws relating to the  
10 education of children with disabilities in the same manner as a school  
11 district.

12 8. That it provides for a governing body for the charter school that  
13 is responsible for the policy decisions of the charter school.

14 9. That it provides a minimum of one hundred seventy-five  
15 instructional days before June 30 of each fiscal year unless it is operating  
16 on an alternative calendar approved by its sponsor. The superintendent of  
17 public instruction shall adjust the apportionment schedule accordingly to  
18 accommodate a charter school utilizing an alternative calendar.

19 F. The charter of a charter school shall include a description of the  
20 charter school's personnel policies, personnel qualifications and method of  
21 school governance and the specific role and duties of the sponsor of the  
22 charter school. A charter school shall keep on file the resumes of all  
23 current and former employees who provide instruction to pupils at the charter  
24 school. Resumes shall include an individual's educational and teaching  
25 background and experience in a particular academic content subject area. A  
26 charter school shall inform parents and guardians of the availability of the  
27 resume information and shall make the resume information available for  
28 inspection on request of parents and guardians of pupils enrolled at the  
29 charter school. Nothing in this subsection shall be construed to require any  
30 charter school to release personally identifiable information in relation to  
31 any teacher or employee including the teacher's or employee's address,  
32 salary, social security number or telephone number.

33 G. The charter of a charter school may be amended at the request of  
34 the governing body of the charter school and on the approval of the sponsor.

35 H. Charter schools may contract, sue and be sued.

36 I. An approved plan to establish a charter school is effective for  
37 fifteen years from the first day of operation. At the conclusion of the  
38 first fourteen years of operation, the charter school may apply for renewal.  
39 In addition to any other requirements, the application for renewal shall  
40 include a detailed business plan for the charter school. The sponsor may  
41 deny the request for renewal if, in its judgment, the charter school has  
42 failed to complete the obligations of the contract or has failed to comply  
43 with this article. A sponsor shall give written notice of its intent not to  
44 renew the charter school's request for renewal to the charter school at least  
45 twelve months before the expiration of the approved plan to allow the charter

1 school an opportunity to apply to another sponsor to transfer the operation  
 2 of the charter school. If the operation of the charter school is transferred  
 3 to another sponsor, the fifteen year period of the current charter shall be  
 4 maintained. A sponsor shall review a charter at five year intervals and may  
 5 revoke a charter at any time if the charter school breaches one or more  
 6 provisions of its charter. At least ninety days before the effective date of  
 7 the proposed revocation the sponsor shall give written notice to the operator  
 8 of the charter school of its intent to revoke the charter. Notice of the  
 9 sponsor's intent to revoke the charter shall be delivered personally to the  
 10 operator of the charter school or sent by certified mail, return receipt  
 11 requested, to the address of the charter school. The notice shall  
 12 incorporate a statement of reasons for the proposed revocation of the  
 13 charter. The sponsor shall allow the charter school at least ninety days to  
 14 correct the problems associated with the reasons for the proposed revocation  
 15 of the charter. The final determination of whether to revoke the charter  
 16 shall be made at a public hearing called for such purpose.

17 J. After renewal of the charter at the end of the fifteen year period  
 18 described in subsection I of this section, the charter may be renewed for  
 19 successive periods of fifteen years if the charter school and its sponsor  
 20 deem that the school is in compliance with its own charter and this article.

21 K. A charter school that is sponsored by the state board of education  
 22 or the state board for charter schools may not be located on the property of  
 23 a school district unless the district governing board grants this authority.

24 L. A governing board or a school district employee who has control  
 25 over personnel actions shall not take unlawful reprisal against another  
 26 employee of the school district because the employee is directly or  
 27 indirectly involved in an application to establish a charter school. A  
 28 governing board or a school district employee shall not take unlawful  
 29 reprisal against an educational program of the school or the school district  
 30 because an application to establish a charter school proposes the conversion  
 31 of all or a portion of the educational program to a charter school. ~~As used~~  
 32 ~~in~~ FOR THE PURPOSES OF this subsection, "unlawful reprisal" means an action  
 33 that is taken by a governing board or a school district employee as a direct  
 34 result of a lawful application to establish a charter school and that is  
 35 adverse to another employee or an education program and:

36 1. With respect to a school district employee, results in one or more  
 37 of the following:

- 38 (a) Disciplinary or corrective action.
- 39 (b) Detail, transfer or reassignment.
- 40 (c) Suspension, demotion or dismissal.
- 41 (d) An unfavorable performance evaluation.
- 42 (e) A reduction in pay, benefits or awards.
- 43 (f) Elimination of the employee's position without a reduction in
- 44 force by reason of lack of monies or work.

1 (g) Other significant changes in duties or responsibilities that are  
2 inconsistent with the employee's salary or employment classification.

3 2. With respect to an educational program, results in one or more of  
4 the following:

5 (a) Suspension or termination of the program.

6 (b) Transfer or reassignment of the program to a less favorable  
7 department.

8 (c) Relocation of the program to a less favorable site within the  
9 school or school district.

10 (d) Significant reduction or termination of funding for the program.

11 M. Charter schools shall secure insurance for liability and property  
12 loss. The governing body of a charter school that is sponsored by the state  
13 board of education or the state board for charter schools may enter into an  
14 intergovernmental agreement or otherwise contract to participate in an  
15 insurance program offered by a risk retention pool established pursuant to  
16 section 11-952.01 or 41-621.01 or the charter school may secure its own  
17 insurance coverage. The pool may charge the requesting charter school  
18 reasonable fees for any services it performs in connection with the insurance  
19 program.

20 N. Charter schools do not have the authority to acquire property by  
21 eminent domain.

22 O. A sponsor, including members, officers and employees of the  
23 sponsor, is immune from personal liability for all acts done and actions  
24 taken in good faith within the scope of its authority.

25 P. Charter school sponsors and this state are not liable for the debts  
26 or financial obligations of a charter school or persons who operate charter  
27 schools.

28 Q. The sponsor of a charter school shall establish procedures to  
29 conduct administrative hearings on determination by the sponsor that grounds  
30 exist to revoke a charter. Procedures for administrative hearings shall be  
31 similar to procedures prescribed for adjudicative proceedings in title 41,  
32 chapter 6, article 10. Except as provided in section 41-1092.08, subsection  
33 H, final decisions of the state board of education and the state board for  
34 charter schools from hearings conducted pursuant to this subsection are  
35 subject to judicial review pursuant to title 12, chapter 7, article 6.

36 R. The sponsoring entity of a charter school shall have oversight and  
37 administrative responsibility for the charter schools that it sponsors.

38 S. Charter schools may pledge, assign or encumber their assets to be  
39 used as collateral for loans or extensions of credit.

40 T. All property accumulated by a charter school shall remain the  
41 property of the charter school.

42 U. Charter schools may not locate a school on property that is less  
43 than one-fourth mile from agricultural land regulated pursuant to section  
44 3-365, except that the owner of the agricultural land may agree to comply  
45 with the buffer zone requirements of section 3-365. If the owner agrees in



1 writing to comply with the buffer zone requirements and records the agreement  
 2 in the office of the county recorder as a restrictive covenant running with  
 3 the title to the land, the charter school may locate a school within the  
 4 affected buffer zone. The agreement may include any stipulations regarding  
 5 the charter school, including conditions for future expansion of the school  
 6 and changes in the operational status of the school that will result in a  
 7 breach of the agreement.

8 V. A transfer of a charter to another sponsor, a transfer of a charter  
 9 school site to another sponsor or a transfer of a charter school site to a  
 10 different charter shall be completed before the beginning of the fiscal year  
 11 that the transfer is scheduled to become effective. An entity that sponsors  
 12 charter schools may accept a transferring school after the beginning of the  
 13 fiscal year if the transfer is approved by the superintendent of public  
 14 instruction. The superintendent of public instruction shall have the  
 15 discretion to consider each transfer during the fiscal year on a case by case  
 16 basis. If a charter school is sponsored by a school district that is  
 17 determined to be out of compliance with this title, the uniform system of  
 18 financial records or any other state or federal law, the charter school may  
 19 transfer to another sponsoring entity at any time during the fiscal year.

20 W. The sponsoring entity may not charge any fees to a charter school  
 21 that it sponsors unless the sponsor has provided services to the charter  
 22 school and the fees represent the full value of those services provided by  
 23 the sponsor. On request, the value of the services provided by the sponsor  
 24 to the charter school shall be demonstrated to the department of education.